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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,103

06/26/2003

Brian Geraghty

202-1607

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06/27/2006

MILLER LAW GROUP, PLLC
AND FORD GLOBAL TECHNOLOGIES, INC.
25 STEVENS AVENUE
WEST LAWN, PA 19609

EXAMINER

ELKINS, GARY E

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,103

Applicant(s)

GERAGHTY ET AL.

Examiner

Gary E. Elkins

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3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-18 is/are allowed.
- 6) ☒ Claim(s) 2-9 is/are rejected.
- 7) ☒ Claim(s) 10 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 20 depends from cancelled claim 19.

Claim Rejections - 35 USC § 102 & 103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4 and 7-9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hutchison. Hutchison discloses a container including two elongated compartments (see fig. 11) with a panel (frame 42) attached to the front wall of one of the compartments and providing a greater resistance to penetration at the panel than remaining portions of the container body at the panel. The panel in Hutchison is formed from wood which has a greater resistance to penetration than the paperboard forming the body.

The container of Hutchison is considered capable of being placed within an automotive vehicle. Alternatively, it would have been obvious to size the container of Hutchison to fit within an automotive vehicle as a mere change in the size of the container to fit a desired storage space and/or to carry a given size of content. Sizing of a container is within the level of skill in this art. With respect to claims 3 and 4, the container in Hutchison includes a ledge formed by the upper edges of the container. No distinction is seen between the container claimed and that in Hutchison as a result of the claimed intended use of the ledge or upper edge to seat a lid or to seat a translucent lid, i.e. the upper edges are considered capable of the intended use recited. With respect to claim 7, the dividers in Hutchison are considered to extend vertically from the body insofar as it extends vertically from the bottom of the body insofar as claimed.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison, as applied to claim 2 above, in view of Schneeweiss. Hutchison or modified Hutchison discloses all structure of the claimed container except formation of each compartment with a lid where one of the lids covers the entire compartment and another of the lids covers a portion of the compartment. Schneeweiss teaches that it is known to make a container with compartments where each compartment has a lid and at least one of the lids (22m) partially covers a compartment and another of the lids (20l) covers a compartment completely. It would have been obvious to make the container of Hutchison with lids as taught by Schneeweiss to facilitate individual access to each compartment and to seal the container as a whole.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison in view of Schneeweiss, as applied in paragraph 4, and further in view of Huspeka et al. Modified Hutchison fails to evidence a recessed or tray top lid. Huspeka et al teaches that it is known to

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form a lid on a carton using a separate recessed lid. It would have been obvious to provide the carton of Hutchison with a separate recessed lid as taught by Huspeka et al to protect the contents and to allow stacking of multiple like containers.

Allowable Subject Matter

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 12-18 are allowed.

9. Claim 20, if amended to depend from claim 18, would be allowable over the prior art of record.

Response to Arguments

10. Applicant's arguments filed 13 April 2006 have been fully considered but they are not persuasive.

With respect to claims 2-9, the remarks assert that the patent to Hutchison fails to show a front wall with a reinforcement panel made from a material different than the material from which the body of the container is formed and further fails to show a material which has a penetration resistance greater than the other material. In response, the patent to Hutchison clearly evidences a front wall which includes a panel formed from reinforcing wood which has a greater resistance to penetration than the paperboard from which the body is formed.

Claim 12 has been indicated allowable over the prior art of record insofar as the combination of the claimed orientation of the compartments, a reinforcement panel attached to the front wall and extending substantially entirely along the transverse dimension of the front

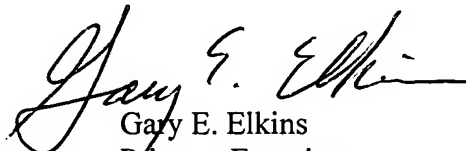
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wall and the reinforcement panel being formed from a different material having a greater penetration resistance quality than the material forming the compartments is not considered to be suggested by the prior art of record.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
25 June 2006